IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 979 OF 2004

Smt.Charusheela Tukaram Prabhu. ... Appellant.

Versus.

Pradeep Tukaram Prabhu. ... Respondent.

Shri M.M.Thorat for the Appellant.

Shri P.G.Karande for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 21st March, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. The learned Counsel for the parties state that both of them tried their best before the mediator for an amicable settlement. However, the settlement has not taken place.

2. By the impugned order the learned trial Judge has disposed of the Notice of Motion for interim relief taken out by the Appellant/Plaintiff. By the same order the learned trial Judge framed issues. It is not in dispute that the affidavit of examination-in-chief is filed by the Appellant and on 23rd March 2005 the suit is fixed before the learned trial Judge for cross-examination of the Appellant.

3. As the suit is being heard finally, there is no propriety in keeping this Appeal from Order against the

order refusing interim relief pending. From the year 2003 there is no interim order operating in favour of the Appellant. The refusal to grant interim relief is a discretionary order. When the suit itself is fixed for hearing no interference is called for. Hence the Appeal is dismissed with no order as to costs.

4. It is obvious that the learned trial Judge will decide the suit on its own merits without being influenced by the impugned order and the confirmation thereof by this Court.

5. Parties to act on an authenticated copy of this order.

Judge.